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USAID/MACEDONIA JUDICIAL STRENGTHENING PROJECT (JSP)

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TABLE OF CONTENTS

I. PROGRAM ACTIVITIES AND TASKS

RESULT 1 1

REQUIREMENT 1.1 1

RESULT 2..... 4

REQUIREMENT 2.1 4

REQUIREMENT 2.2..... 4

RESULT 3..... 5

REQUIREMENT 3.1 5

REQUIREMENT 3.2..... 6

II. PROBLEMS AND REMEDIAL ACTIONS 7

III. SUMMARY OF ACTIVITIES PLANNED FOR MAY 2012..... 7

I. PROGRAM-RELATED ACTIVITIES AND TASKS

First-Year Work Plan and Performance-Monitoring Plan

During April, COP Joseph Traficanti and DCOP Nena Ivanovska continued to work with USAID Contracting Officer Representative (COR) Antoaneta Skartova to finalize JSP's First-Year Work Plan. The final plan was filed with USAID and approved by the COR on April 13, 2012. As a result of a number of meetings that took place with the COR and with both USAID PMP Expert Ivica Vasev and the Project Development Specialist, the Project Monitoring Plan was submitted to USAID. There is still one indicator being developed (the ratio of new case filings to dispositions). We anticipate it will be completed in early May and will be resubmitted.

I. RESULT 1: STRENGTHENING ADVOCACY AND CITIZEN PARTICIPATION IN JUDICIAL SECTOR REFORM

I.1. Requirement 1.1 - *A short, focused assessment, baseline survey, and resulting action plan on judicial-sector professional associations and CSOs and the role they can play in strengthening the rule-of-law area in Macedonia.*

In accordance with the first-year work plan, JSP will assist selected legal professional associations (LPAs) and civil society organizations (CSOs) to provide better services to and advocate for the interests of their members. The goal is to foster the demand side of judicial reform and build pressure on the Government of Macedonia (GOM) and judicial leadership to undertake reforms that advance judicial independence and effectiveness. The project has already identified relevant professional associations and CSOs willing and able to advocate for judicial reform. The focus of Year I will be to assess and strengthen the capacity of the various organizations selected.

As previously reported, JSP developed a revised list of LPAs and CSOs for possible JSP intervention. JSP has also identified potential partner organizations, including the Association for Emancipation, Solidarity, and Equality; the Center for Institutional Development; the Macedonian Institute for Integration; World Learning Impact; and the Macedonian Center for International Cooperation. As a result of an RFQ, a contract was signed between JSP and the Center for Institutional Development (CIRa) on February 16, 2012.

CIRa completed phase I of the study on March 28, 2012, submitted a draft report, and gave a presentation to JSP personnel and the COR on April 2. On April 6, JSP staff, in consultation with the COR, selected three LPAs for phase II of the assessment:

- The Macedonian Judges Association (MJA);
- The Macedonian Young Lawyers Association (MYLA);
- The Court Administration Association (CAA).

The list was approved by the COR on April 11, 2012. Letters were sent to each of the associations chosen for targeted capacity-building assistance, describing phase II of the assessment, also to be conducted by CIRa as part of its contract.

During the week of April 16, CIRa began its preparations for the second phase of the assessment to further strengthen their organizational capacity and performance. In phase II of the assessment, an in-depth assessment of the selected LPAs is being conducted to identify performance gaps and needs to tailor capacity-building assistance to the needs of each organization. Phase II is now underway.

Accordingly, a long and short-form standard balanced scorecard was developed, based on the findings and recommendations from the first phase of the assessment. Performance Goal

Workshops were organized and conducted for representatives of the Court Administration Association on April 24, and for the Macedonian Young Lawyers Association on April 27. A workshop will be conducted for the Macedonian Judges Association on May 7 to accommodate the schedule of the president of the MJA. The purpose of these performance assessment workshops is an in-depth assessment of each organization and the completion of an initial evaluation or scorecard with a long version of the scorecard to follow. The data collected and workshop interviews will be analyzed, and results reported to USAID/JSP by CIRa on approximately May 15, along with a draft capacity-building plan for each organization. A detailed Performance Assessment Report (PAR) for each organization will follow. A member of JSP staff has been present at each of the workshops and will continue that oversight at the MJA workshop as well.

The project will also work with the LPAs and CSOs, including those that were part of the assessment but not selected for targeted capacity-building training. The initial assessment of the PAs and CSOs demonstrated that these organizations have significant strengths but will need capacity strengthening in limited areas. JSP sent a letter to each on April 17, 2012, outlining JSP's commitment to them. JSP informed each of the associations and organizations that JSP is planning to include representatives from each organization in a series of trainings provided for all LPAs and CSOs included in the assessment. JSP informed them that an action plan will be finalized by June 2012, and the trainings will be conducted over a period of one year from June 2012 to June 2013.

The goal will be to help them become self-sustaining and to stimulate interest in participation in civil society and in the development of or opposition to laws; in general to become advocates for or against laws and advocates for an independent judiciary and the rule of law. It is expected that this will encourage the development of a broad-based coalition for the rule of law and judicial system reform that will include CSOs, LPAs, reform-minded individuals, academics, students, businesses, think tanks, etc. An important topic, which will be presented to these organizations, is the challenge of identifying available grants and instructing them on grant writing—a key to sustainability.

1.1.1 Macedonian Judges Association

In addition to the capacity-building efforts for the Macedonian Judges Association (MJA), JSP will work to support a number of initiatives that will make the MJA a formidable voice for its members, the judiciary, and the rule of law. JSP conducted extensive discussions with the president of the MJA during and prior to this reporting period and we have reached a consensus on a number of areas of cooperation. These include collaboration in the development of national time standards for the resolution of litigation, as well as a proposal for differentiated case management—that is, identifying cases in accordance with their anticipated complexity with different time standards for each category. Tentative plans include the facilitation of roundtables or discussion groups in the following areas:

- Decriminalization of Defamation Law
- Challenges of commercial cases for judges and lawyers
- Troublesome aspects of the Civil Procedure Law
- Administrative Court issues

Judge Nikolovski was open to including representatives of the media and lawyers in some of these discussions or roundtables, when appropriate to the topic. He has also requested assistance for the Administrative Court, which has a large backlog of cases. Possible assistance for the Administrative Court is under discussion with the Judicial Council, and with the Academy for Judges and Prosecutors.

1.1.2 Court Administration Association

The Court Administration Association (CAA) is a relatively new organization, with approximately 1,200 members. It is comprised of court employees and has demonstrated, in its short existence, a collective will to support its membership, endorse court reform, and effectively advocate for an independent judiciary. The CAA has a dynamic leadership, eager to learn and to lead. The project is confident that the gaps in its organization, as described in the CIRa report, will be remedied and that it will continue to be one of the sterling LPAs in Macedonia. It was chosen as one of three to undergo USAID capacity-building assistance. As a result, a representative of CAA took part in the workshop on April 24 conducted as part of phase II of the assessment.

The Court Administration Association has been invited by the International Association of Court Administrators (IACA) to attend its conference from June 13 to 15 and to deliver a presentation on new automation systems for court administration and management. This conference will present an opportunity for the CAA to acquire full membership in the IACA and international recognition for the association. Accordingly, in consultation with the COR, a decision was made by JSP to support two CAA members to attend the (IACA) conference. JSP staff has assisted the two selected members with the technical details of the trip. The members selected are the president of the CAA, Borche Mirceski; and Lidija Tanevska-Jardovska, Chief of the Cabinet of the Supreme Court.

The CAA has also been engaged during this reporting period with JSP staff and in assisting in the development of a Training Needs Assessment by supplying suggestions for future trainings through its membership.

1.1.3 Macedonian Lawyers Association

Previously, representatives of JSP have met with members of the Macedonian Lawyers Association (MLA) to describe the project's activities, mission, and goals. MLA is an organization of lawyers dedicated to legal work in the commercial and business field. It is an active organization that organizes two meetings or conferences each year and discusses current legal topics. It publishes a monthly newsletter, *Pravnik (Lawyer)*. MLA has completed an analysis of the duration of the commercial cases in the courts, and it recognizes the need for and supports special commercial departments in the courts and continuous education and training for commercial judges and lawyers.

At a meeting on April 19, staff of the JSP and of the USAID project Investment Development and Export Advancement Support Project (IDEAS) discussed the MLA. They concluded that MLA is an important resource for commercial law trainings, since it has a membership highly qualified and skilled in this area of law. Members can be engaged as speakers on various issues. It was suggested that both projects should devise a joint solution on how to support MLA in the framework of these commercial law trainings, and to contribute to strengthening the institutional capacity and sustainability of this association.

MLA will be a good partner for improving the efficiency and quality of justice in the commercial area. This group will also be useful in determining the training needs of judges in the commercial area, and perhaps in helping to design the training courses. JSP and IDEAS will jointly develop a questionnaire for determining the training needs of commercial lawyers, judges, and businesses. The needs assessment will be conducted during the period of June and July 2012. Based on the results, JSP will develop a more comprehensive and tailored training plan in the commercial area.

1.1.4 Grant Assistance to LPAs and CSOs

On April 23, COP Traficanti, DCOP Ivanovska, and project attorney Kristina Cuculoska attended a meeting with Suncica Kostovska, the director, and Adrijana Lavciska, program

coordinator of the new USAID Civil Society Project, which is designed to offer grants to a targeted group of organizations. JSP is interested in assisting LPAs in obtaining small grants. The purpose of this meeting was to ascertain funding opportunities and trainings for the organizations with which JSP is working. Two of the Civil Society Project's components may provide future funding for JSP assisted organizations: Research, Outreach, and Advocacy; and Cooperation and Mobilization.

JSP is also planning to offer extensive training on grant applications for European Union (EU) funds. On April 24 the COP, DCOP, and the project's court administration coordinator met with Zoran Janakiev, president of the Macedonian Institute of Integration, who can offer two or three experts for this training to selected NGOs. There are three different program modules:

- Generic training for EU funds;
- Training tailored to the Instrument for Pre-accession Assistance (IPA) program;
- Monitoring and evaluation after funds are approved for an NGO.

2. RESULT 2: MORE INDEPENDENT, EFFICIENT AND CONSISTENT APPLICATION OF JUDICIAL POLICIES AND PRACTICES

2.1 Requirement 2.1 - *Legal framework and judicial branch policies strengthen independence, effectiveness, and accountability of the judicial system.*

2.1.1 Review and Advocacy of Laws by Judiciary

Up-to-date versions of relevant laws, with the most recent amendments, have been obtained and reviewed. The COP and DCOP have been meeting with the MJA, MLA, and CAA during this reporting period to discuss the formation of a judicial group to review these laws and to identify inconsistencies, gaps, unfunded mandates, duplications, and idiosyncrasies. The goal is to encourage the judiciary to be proactive in proposing laws and amendments and in opposing laws compromising judicial independence and efficiency. Another goal is to review current laws with an attempt to harmonize them. The project will provide an atmosphere conducive to institutionalizing this effort and eventually introducing civil society participation, allowing for input from appropriate LPAs and other CSOs.

During this reporting period, tentative plans were developed for public discussions as well as round tables on selected laws. The list will be expanded further, but currently it tentatively includes the decriminalization of defamation, commercial law, civil procedure law, and administrative court issues.

2.2 Requirement 2.2 - *Administration and management rules, policies and procedures, systems and practices to support a modern court system; work with judicial sector authorities and actors to establish effective governance and operational systems for managing court resources—budget human resources, facilities, equipment, etc.; strengthen managerial capabilities and introduce performance standards*

2.2.1 Strengthening Judicial Administration and Management Systems, Procedures, and Capacities

The project has undertaken an assessment of the existing administration and management systems, procedures, and practices of the courts and judicial bodies. As previously reported, JSP staff gathered selected materials that constitute the existing framework for court operations. An on-site consultancy began on March 18. The expert, Moira O'Leary Rowley, reviewed current court processes to identify gaps, impediments and obstacles to seamless and efficient court administration and operations management. While the official in-country consultancy ended on March 30, the JSP staff continued to support the consultant by conducting research and

transmitting important data to the consultant relevant to the anticipated findings and recommendations well into April. The final report is expected to be extensive, but we have not received it as of this writing. We have sent reminders.

2.2.2 Court Staffing Study and Recommended Staffing Guidelines

Staffing guidelines are important to provide a consistent, factual basis for the judiciary to assess staffing needs in all courts, and to reassign resources, as necessary. Such guidelines also provide a consistent, factual basis for the preparation of budget requests for new positions. Such an approach reduces the funding source's ability to reject a request on the basis of lack of justification. It is also imperative that staffing guidelines be realistic, easily understood, and consistently applied. It is against this backdrop that JSP undertook a staffing study to support the development of staffing guidelines. International expert Dr. Ronald Stout commenced the study and on-site work on March 13, 2012. From the time that Dr. Stout completed the in-country portion of his consultancy until the final report was received, JSP staff supported his work by gathering statistics and preparing Excel spreadsheets vital to the outcome. A number of follow-up items had to be resolved, particularly regarding the capability of ACCMIS to support the methodologies that Dr. Stout recommended. This required JSP staff to conduct follow-up meetings or conferences with the Supreme Court IT Department, as well as with individual users.

The final report was received on April 11, 2012. Upon receipt, the report was reviewed by JSP staff and approved. It is being translated and will serve as the basis for future workshops and discussion groups aimed at the implementation stage of the adoption of staffing guidelines. Dr. Stout continued to volunteer his time to assist JSP on a number of follow-up issues.

3. RESULT 3: INCREASED FAIRNESS AND EFFICIENCY OF THE ADMINISTRATION OF JUSTICE THROUGH MORE EFFECTIVE LEGAL PERSONNEL AND EFFICIENT PROCESSES

3.1 Requirement 3.1 - *Develop and implement targeted specialized trainings for judges, court administrative executives, and court staff.*

3.1.1 Training of members of the Court Budget Council (CBC); Training on Management Responsibilities of President Judges and Court Administrators

The latest changes in the Law on Courts, the Law on Judicial Council, and the Law on Case Management, dated 2010, assign very specific responsibilities to president judges regarding managing their courts, managing court finances, and reporting to the JC. Each year president judges are evaluated based on the organization and functioning of their courts, transparency of the courts, usage of court information technology, and financial operation of the courts.

At the request of the president of the CBC and JC, JSP is preparing tailored trainings for members of the CBC on budget preparation and execution, and for president judges and court administrators on court management. JSP has contracted with Dutch expert, Judge Bert Maan, to develop and implement a curriculum for specialized training for judges and court administrative executives. During this reporting period, JSP staff assisted Judge Maan by sending required background documents and worked with him to develop an agenda and PowerPoint slides for a two-day training. On May 8 the training will be held for the CBC, and on May 9 training will be held for all president judges and court administrators. Training topics on the second day will include appropriate management skills for a modern-day court during difficult times, as well as sections on leadership, transparency, and accountability.

Judge Maan will be joined by local experts, including Judge Stojance Ribarev on court management, and Judge Danica Ristova on budget issues. Invitation letters have been prepared and posted to the participants.

On May 7 Judge Maan will also meet with Judge Aneta Arnaudovska, director of the Academy for Judges and Public Prosecutors (JTA), to further discuss the need to develop a standard curriculum for basic and advanced management skills and practices for president judges and court administrators. This will assist JSP in the development of the Training Needs Assessment being conducted at the present time.

In preparation for the training, JSP staff met with Silvija Janevska, head of the AO of the CBC on April 18. Her input was crucial to the development of a meaningful agenda. She requested that the training be global and focus on Judge Maan's extensive experience in Holland. She also suggested that some modules from previous trainings be repeated.

Other issues were discussed during the meeting with Ms. Janevska, including the project's ongoing effort to make "needs-based budgets" a reality. It has been decided that the initiative should start in pilot courts. Ms. Janevska suggested the following for pilot courts: Lower Courts, Skopje I; Bitola; Shtip and Tetovo; and the Appellate Court, Skopje.

A number of human resource and personnel issues were also discussed such as the appointment of new employees of the courts pursuant to the Ohrid Framework Agreement and the need for effective evaluation of court employees.

3.1.2 Assessment of Specialized Training Needs for the Judicial Sector

In January, the project staff began collecting data and information regarding future training needs, and continues to do so. Extensive outreach has been made to judges, attorneys, court administrators, and educators including the director of the JTA, Judge Aneta Arnaudovska. A Training Needs Assessment (TNA) will be prepared and will outline the findings and recommendations in detail. As part of the TNA effort, JSP will organize a meeting with a focus group of commercial lawyers and judges.

A meeting with Judge Arnaudovska took place on April 17 at the JTA. A number of topics were discussed including her thoughts on the types of legal training needed. These will be considered and prioritized in the TNA report. They included training in:

- Evaluation of court personnel for court administrators and heads of departments;
- Law on Case Management and the "management team;"
- Law on Civil Procedure;
- Law on Criminal Procedure;
- Public information officers;
- Administrative court judges;
- Train the trainers;
- Legal English course for judgeship candidates.

3.2 Requirement 3.2 - Improve Caseload Processing and Reduce Backlog of Cases.

JSP has retained a local IT expert, Ms. Rosaliya Vasilevska-Karcinska, to assess the use of the Automated Court Case Management System (ACCMIS) and to determine and report on impediments to its full use by the courts and other users. The consultant has been tasked to assess the impact of ACCMIS on court operations and case processing and the synergies between records, systems, controls, management standards, and court budgets. On April 25 she filed her report with recommendations on how to ameliorate the use of ACCMIS to improve case processing; reduce backlogs; encourage planning; submit, oversee and manage budgets; and support court administration and management. Major observations and recommendations include:

- Establish an inventory of the computer hardware in each venue and develop written policies for re-evaluation, replacement, and maintenance procedures;
- Implement a Microsoft Firewall server to protect the databases in the court system;
- Procure UPS devices for all working stations in order to prevent a loss of ACCMIS data;
- Develop written policies and a manual for managing backup, file recovery, and testing the functioning of the system;
- Conduct an assessment of utilization of the Automated Budget Management System (ABMS), and enable a budget procedure providing for the submission and execution of budgets online;
- Increase the number of mandatory data to be entered into ACCMIS;
- Upgrade ACCMIS to enable producing reports for the European Commission for the Efficiency of Justice.

The Supreme Court, at its general sessions on April 25 and 26, 2012, discussed and accepted annual reports for the work of all courts in the Republic of Macedonia for 2011. On behalf of JSP, Nena Ivanovska attended portions of each session to ascertain the status of the courts in terms of case-processing abilities and backlog-reduction progress.

On the first day, the Supreme Court reviewed the annual report for the High Administrative Court, Administrative Court, Appellate Court of Skopje, lower courts in the Skopje Appellate region, Appellate Court of Gostivar, and lower courts of that region. On the second day, the Supreme Court discussed and accepted the annual report of the Appellate Court of Bitola, the Appellate Court of Shtip, and lower courts in these two appellate regions.

The general perception of the work of the courts is that most of the courts resolved their current workload and decreased their backlog. Almost all courts received fewer cases compared with 2010. Some of the courts were not able satisfactorily to resolve their workload in 2011, including the Supreme Court, the High Administrative Court, the Administrative Court, and the Basic Court of Skopje I.

II. PROBLEMS AND REMEDIAL ACTIONS

Problems have been minimal and in the nature of those to be expected in the regular course of business. None have been extraordinary and all have been addressed and resolved.

III. SUMMARY OF ACTIVITIES PLANNED FOR MAY 2012

Summary of activities planned for May:

- Present an individual report of needs assessment to each legal professional association and civil society organization;
- Review CIRa's report on in-depth analysis of CAA, MYLA, and MJA;
- Review report of CIRa and facilitate agreement of a capacity building-plan for each targeted LPA chosen;
- Begin preparations for training for 11 professional associations in grant identification and writing including selecting experts for training;
- Support consultancy of Judge Maan and support trainings on May 8 and 9;
- Assist Judge Maan and Judge Arnaudovska at meeting on May 7 in identifying training needs;
- Share translated staffing study report with partners; establish tasks and timelines for implementation;
- Review assessment report of existing administration and management practices and set schedule for implementation of selected results when approved by partners and USAID;

- Conduct two-day training for members of the Court Service Council and court administrators on hiring and evaluation of court employees on May 17 and 18;
- Schedule and begin delivery of public discussions and workshops on selected laws;
- Identify potential members of a judicial working group to review laws;
- Prepare report on the specialized Training Needs Assessment for future training of judges and court administrators;
- In collaboration with the director of the Academy for Judges and Public Prosecutors, develop an initial training plan and a “train the trainers” training;
- Continue to accumulate statistical data on case filings, dispositions, and backlogs by court and case type and prepare an in-depth analysis of the case data; select 8 pilot courts and establish targets for years 2 and 3;
- Support the Jurisprudence Harmonization meeting of the four appellate regional presidents on May 11 and set assistance targets for future meetings and activities;
- Identify all issues regarding complete systemwide use of ACCMIS and establish plan for implementation of recommendations of the ICT expert;
- Continue work with the CAA, MJA, MYLA to develop areas of support by JSP as recommended by the assessment;
- Select pilot court for implementing needs-based budgets and schedule training;
- Continue to meet with donors and monitor opportunities for collaboration and grants;
- Prepare three-year plan for off-shore study tours.